

### **Remarks**

This Amendment and Response is in reply to the Office Action dated July 2, 2010. Therefore, the time period for response extends up to and includes October 2, 2010 (since that date falls on a Saturday, the response date is extended to the following Monday: October 4, 2010). Applicants wish to thank the Examiner for her careful review and consideration of the application.

Applicants have amended claims 1, 5, 14, 18, and 44 are above. All amendments are supported by the present application as originally filed. No new matter is added. Claims 1-26 and 32-46 remain pending. Reconsideration and allowance of the pending claims are requested for at least the following reasons.

### **Claim Rejections – 35 U.S.C. § 103: Tsai and Plyler**

At pages 2-3 of the Action, claims 1-11, 13-24, 26, and 32-46 are rejected under 35 U.S.C. § 103(a) as being obvious over Tsai (U.S. 7,204,816) in view of Plyler (U.S. 6,755,599). Applicants respectfully traverse this rejection and do not concede the correctness of any characterization of cited references and/or subject matter of the present application. However, in an effort to advance the present application to allowance, independent claims 1, 14, and 44 are amended. Support for the amendments are found, for example, at Figures 1-7 and page 4, line 1, through page 8, line 8 of the present application. The rejection should be withdrawn for at least the following reasons.

#### **A. Claims 1-11 and 13**

Independent claim 1 is directed to a bicycle rack intended in use to be supported from a support. Claim 1 recites:

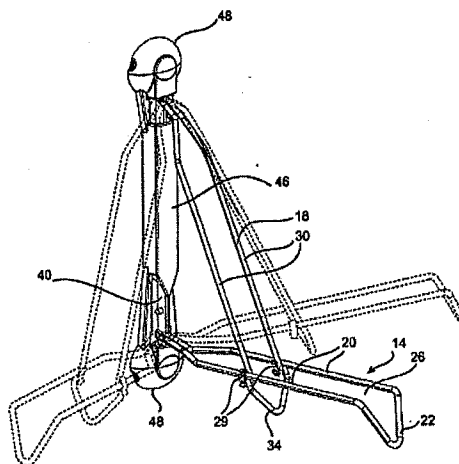
a base adapted to be fixed to the support;  
a support member having an outer and an inner edge, the inner edge of the support member being connected to the base to enable the support member to be pivotable about a first axis which in use is to be generally level and the outer edge having a first wheel support structure, the support member being moveable between a first position, at which the support member is upwardly adjacent to the support, and a second position at which the support member extends laterally from the support, the support member pivotable about a third axis between the second position and a third position at which the support member is substantially

laterally adjacent the support, the third axis being generally perpendicular and coplanar with respect to the first axis;

a brace member comprising at least one bracing arm disposed between the base and the support member, and a second wheel support structure, the brace member adapted to support the support member when the support member is in the second position;

wherein the second wheel support structure is disposed generally intermediate the first wheel support structure and the inner edge of the support member and wherein the first wheel support structure and the second wheel support structure are adapted to receive and support therebetween a portion of a wheel of a bicycle with spaced clearance from the support when the support member is in the second position such that the support member is pivotally displaceable between the second position and the third position when operatively supporting a bicycle.

Figures 1-7 of the present application illustrate example non-limiting embodiment(s) consistent with the bicycle rack of claim 1. For example, Figure 5 (reprinted below) illustrates a rack 10 configured to accommodate a single wheel of a bicycle for storage of the bicycle in a downwardly depending orientation to minimize storage space (e.g., as shown in Figure 3).



**Fig. 5.**

Application, Figure 5. The example rack 10 includes spaced first and second wheel support structures 22, 34 configured to support wheels of various sizes, such that the wheel of the bicycle is spaced at a distance from the support. Furthermore, the example brace member

18 of the rack 10 serves both to support the support member 18, as well as providing a support for supporting the weight of the bicycle itself.

A bicycle rack configured as required in claim 1 advantageously provides a collapsible bicycle support for compact storage of a bicycle in a downwardly depending orientation. Additionally, the claimed spaced first and second wheel support structures are configured to receive bicycle wheels of various sizes, to stably support and locate a wheel relative to the support member without needing to wedge the wheel between the arms of the bracing member, and facilitate loading of a bicycle wheel onto the rack by exploiting the rolling of the wheel such that a user may more easily load the bicycle into the rack and lift it from the ground.

For at least the following reasons, the purported combination of Tsai with Plyler fails to render claim 1 *prima facie* obvious.

i. The Action fails to provide rational support for the conclusion of obviousness.

The articulated reasoning to support the conclusion of obviousness found in the Office Action does not provide a rational underpinning to support the legal conclusion of obviousness. Specifically, the Examiner's statement(s) "Tsai teaches the device claimed absent the side braces. Plyler teaches the side braces. To provide Tsai with side braces as taught by Plyler would have been obvious for one having ordinary skill in the art at the time of the invention" are conclusory. Accordingly, the purported obviousness rejection is improper and cannot be sustained. In sharp contrast to the Examiner's statements, there is no motivation to combine the references. MPEP 2141 (III). For at least this reason, claim 1 is allowable over the combination of Tsai with Plyler.

Applicants request that the Examiner provide a proper rational underpinning to support a legal conclusion of obviousness in any subsequent Office Action(s).

ii. Tsai and Plyler fail to disclose or suggest multiple limitations of claim 1.

First, Tsai is cited as providing subject matter related to the bicycle rack, absent the side braces. However, Applicants assert that Tsai fails to disclose or suggest a “support member having an outer and an inner edge, the inner edge of the support member being connected to the base to enable the support member to be pivotable about a first axis which in use is to be generally level and the outer edge having a first wheel support structure, the support member being moveable between a first position, at which the support member is upwardly adjacent to the support, and a second position at which the support member extends laterally from the support, the support member pivotable about a third axis between the second position and a third position at which the support member is laterally adjacent the support, the third axis being generally perpendicular and coplanar with respect to the first axis” such as required in claim 1.

Instead, Tsai is silent with respect to subject matter of the claimed support member and merely discloses a rack for supporting a bicycle from the back of a vehicle, the bicycle being disposed in a generally horizontal orientation in which both wheels are engaged with the bicycle rack. Plyler likewise fails to disclose or suggest subject matter of the claimed support member.

Second, Tsai fails to provide subject matter related to a brace member as recited in claim 1. Instead, Plyler is cited for providing the disclosure lacking in Tsai. However, Applicants assert that Plyler fails to disclose or suggest “a brace member comprising at least one bracing arm disposed between the base and the support member, and a second wheel support structure, the brace member adapted to support the support member when the support member is in the second position” as recited in claim 1.

Specifically, Plyler is silent with respect to subject matter of the claimed brace member and merely discloses a collapsible recessed wheel chock, intended to be mounted in the bed of a truck or trailer, and therefore generally on the floor of a transport vehicle. The wheel chock so described is intended for the temporary transport of a motorcycle or the like, and not for its storage. Accordingly, the side support members 22 of Plyler simply function to

stabilize the motorcycle laterally, and in the forward direction for stabilization of the motorcycle while in transit. The side support members 22 are not intended to support the weight of the motorcycle and cannot be adapted to do so.

Without acquiescing to correctness of like statements provided in the Action, Applicants acknowledge that the Action suggests that the bicycle rack of Tsai together with the side support members of Plyler would be an obvious combination. However, as described above in section "I" of this paper, such a statement is unfounded. Furthermore, Applicants note that even if Tsai were modified with the side support member 22 of Plyler, such a device would not be able to support a bicycle for storage in a downwardly depending orientation.

In view of the foregoing, the purported combination of Tsai with Plyler fails to achieve all limitations of claim 1 and therefore fails to render claim 1 *prima facie* obvious. Reconsideration and allowance of claim 1, as well as claims 2-11 and 13 that depend either directly or indirectly therefrom, are requested.

B. Claims 14-24 and 26

Independent claim 14 is directed to a bicycle rack supported from an upstanding support.

Claim 14 recites:

- a base fixed to the support;
- a support member having an outer edge and an inner edge, the outer edge having a first wheel support structure and the inner edge of the support member connected to the base to enable the support member to be pivotable about a first axis which is generally level, to be moveable between a first position, at which the support member is upwardly adjacent to the support, and a second position at which the support member extends laterally from the support, and the support member pivotable about a third axis between the second position and a third position at which the support member is substantially laterally adjacent the support, the third axis being generally perpendicular and coplanar with respect to the first axis;
- a brace member comprising at least one bracing arm disposed between the base and the support member, and a second wheel support structure, the brace member adapted to support;
- wherein the second wheel support structure is disposed generally intermediate the first wheel support structure and the inner edge of the support member and wherein the first wheel support structure and the second wheel support structure are adapted to receive and support therebetween a portion of a wheel of a bicycle with spaced clearance

from the support when the support member is in the second position such that the support member is pivotally displaceable between the second position and the third position when operatively supporting a bicycle.

As discussed above in connection with claim 1, Tsai and Plyler (alone or in combination) fail to disclose or suggest subject matter related to a support member and/or a brace member configured as required in claim 14. Furthermore, the articulated reasoning to support the conclusion of obviousness in the Action does not provide a rational underpinning to support the legal conclusion of obviousness in support of the purported combination of Tsai and Plyler. Applicants assert that claim 14 is therefore allowable for reasons similar to those discussed above.

Reconsideration and allowance of claim 14, as well as claims 15-24 and 26 that depend either directly or indirectly therefrom, are requested.

C. Claims 44-46

Independent claim 44 is directed to a bicycle rack intended in use to be supported from a vertical or inclined support. Claim 44 recites,

- a base adapted to be fixed to the support;
- a support member having an outer edge and an inner edge, the inner edge of the support member being connected to the base such that the support member is pivotable about a first axis which in use is generally level and the outer edge having a first wheel support structure, and a second axis which in use is parallel to the support;
- the support member being moveable between a first position, at which the support member is adjacent to the support and a second position at which the support member extends laterally from the support, and the support member pivotable about a third axis between the second position and a third position at which the support member is substantially laterally adjacent the support, the third axis being generally perpendicular and coplanar with respect to the first axis;
- a brace member comprising at least one bracing arm disposed between the base and the support member, and a second wheel support structure, the brace member adapted to support the support member is in the second position;
- wherein the second wheel support structure is disposed generally intermediate the first wheel support structure and the inner edge of the support member and wherein the first wheel support structure and the second wheel support structure are to receive and support therebetween a portion of a wheel of a bicycle with spaced clearance from the support when the support member is in the second position such that the support

member is pivotally displaceable between the second position and the third position when operatively supporting a bicycle.

As discussed above, Tsai and Plyler fail to disclose or suggest subject matter related to a support member and/or a brace member configured as required in claim 44. Furthermore, the articulated reasoning to support the conclusion of obviousness found in the Action does not provide a rational underpinning to support the legal conclusion of obviousness in support of the purported combination of Tsai and Plyler. Applicants assert that claim 44 is therefore allowable for reasons similar to those discussed above.

Reconsideration and allowance of claim 44, as well as claims 45 and 46 that depend either directly or indirectly therefrom, are requested.

**Claim Rejections – 35 U.S.C. § 103: Tsai, Plyler, and Schroeder**

At page 3 of the Action, claims 12 and 25 are rejected under 35 U.S.C. § 103(a) as being obvious over Tsai and Plyler (as applied above) and in further view of Schroeder (U.S. 6,164,465). Applicants traverse this rejection.

Claim 12 depends from independent claim 1. Claim 25 depends from independent claim 14. As discussed above, Tsai and Plyler fail to disclose or suggest all of the limitations of claim 1 and claim 14. Schroeder fails to remedy the shortcomings of the combination of Tsai and Plyler. For example, Schroeder fails to disclose or suggest subject matter related to a support member and/or a brace member configured as required in respective claims 1 and 14. Reconsideration and allowance of claims 12 and 25 are therefore requested.

**Claim Rejections – 35 U.S.C. § 103: Walker and Plyler**

At page 3 of the Action, claims 1-11, 13-24, 26, and 32-46 are rejected under 35 U.S.C. § 103(a) as being obvious over Walker (U.S. 5,246,120) in view of Plyler.

Applicants respectfully traverse this rejection and do not concede the correctness of any characterization of cited references and/or subject matter of the present application.

However, in an effort to advance the present application to allowance, independent claims 1, 14, and 44 are amended.

The rejection should be withdrawn for at least the following reasons.

- i. Walker and Plyler fail to disclose or suggest each limitation of claims 1, 14 and 44.

Walker fails to provide subject matter related to a brace member as recited in claims 1, 14, and 44. Instead, Plyler is cited for providing the disclosure lacking in Walker. However, as shown above, Plyler fails to disclose or suggest a brace member as recited in independent claims 1, 14, and 44. Therefore, Walker in view of Plyler fails to disclose or suggest each limitation of claims 1, 14, and 44.

For at least this reason, pending independent claims 1, 14, and 44 are allowable over the combination of Walker with Plyler.

- ii. Walker teaches away from the bicycle rack of claims 1, 14, and 44.

Walker teaches away from the bicycle rack of claims 1, 14, and 44 in that it appears from Figure 3 of Walker that the weight of the bicycle is not supported by the bicycle rack, and in fact the bicycle is resting on its own weight and the bicycle rack simply serves as a locating and retaining means in order to stabilize the bicycle in a vertical orientation. The bicycle rack of Walker is rather intended for the retaining of a bicycle against a wall without needing to lift it. The bicycle rack so described, is therefore not intended to support the weight of a bicycle, and therefore it would be counterintuitive to add the side support members of Plyler to support the weight of a bicycle. Walker therefore teaches away from the bicycle rack of claim 1, and further there is no suggestion or motivation to make such modify the bicycle rack of Walker.

In view of the foregoing, reconsideration and allowance of claims 1, 14, and 44, as well as claims 2-11 and 13, and claims 15-24, 26, 44, and 45 that respectively depend either directly or indirectly therefrom, are requested.



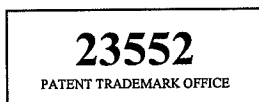
**Claim Rejections – 35 U.S.C. § 103: Walker, Plyler, and Goff**

At page 3 of the Action, claims 12 and 25 are rejected under 35 U.S.C. 103(a) as being obvious over Walker and Plyler (as applied above) and in further view of Goff (U.S. 5,505,318). Applicants traverse this rejection.

Claim 12 depends from independent claim 1. Claim 25 depend from independent claim 14. As discussed above, Walker and Plyler fail to disclose or suggest all of the limitations of independent claims 1 and 14. Goff fails to remedy the shortcomings of the combination of Walker and Plyler. For example, Goff fails to disclose or suggest subject matter related to a support member and/or a brace member configured as required in respective claims 1 and 14. Reconsideration and allowance of claim 12 and 25 are therefore requested.

**Conclusion**

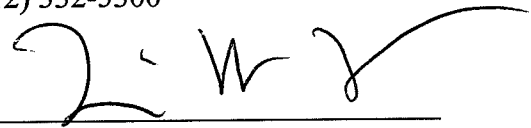
Favorable reconsideration is requested. Applicants do not otherwise concede the correctness of the Examiner's rejections and reserve the right to make additional arguments as may be necessary. Please contact the undersigned with any questions regarding this application.



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Respectfully submitted,

MERCHANT & GOULD P.C.  
P.O. Box 2903  
Minneapolis, Minnesota 55402-0903  
(612) 332-5300

  
Name: Brian H. Batzli  
Reg. No.: 32,960  
BHB:MAH